

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

KIMBERLY COLE, ALAN COLE,  
JAMES MONICA, LINDA BOYD,  
MICHAEL MCMAHON, RAY  
SMINKEY, JAMES MEDDERS, JUDY  
MEDDERS, ROBERT PEPERNO, and  
SARAH PEPERNO, and KELLY  
MCCOY, on behalf of themselves and  
all others similarly situated,

*Plaintiffs,*

v.

NIBCO, Inc.,

*Defendant.*

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: Civil Action No. 13-7871 (FLW)(TJB)  
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CLASS ACTION

**DECLARATION OF BRUCE D.  
GREENBERG IN SUPPORT OF  
PLAINTIFFS' OPPOSITION TO  
DEFENDANT NIBCO, INC.'S  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT**

I, Bruce D. Greenberg, declare the following:

1. I am counsel for the Plaintiffs in this matter and submit this Declaration in Support of Plaintiffs' Opposition to Defendant NIBCO, Inc.'s Motion for Partial Summary Judgment. This Declaration is based on my personal knowledge.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the December 14, 2016 deposition of Deborah Premus taken in this matter.

3. Attached hereto as **Exhibit 2** is a true and correct copy of the October 11, 2016 deposition of Earl Sexton taken in this matter.

4. Attached hereto as **Exhibit 3** is a true and correct copy of a March 30, 2009 document entitled “NIBCO Certifications” bearing Bates Numbers JANA-

000643-646.

5. Attached hereto as **Exhibit 4** is a true and correct copy of the February 2, 2017 deposition of David Bobo taken in this matter

6. Attached hereto as **Exhibit 5** is a true and correct copy of the March 7, 2017 report of Plaintiffs' expert, Cynthia L. Smith.

7. Attached hereto as **Exhibit 6** is a true and correct copy of a document entitled "Polyolefins Call Report," produced by third party Total Petrochemical, Inc. pursuant to subpoena.

8. Attached hereto as **Exhibit 7** is a true and correct copy of a document entitled "PEX PIPE DEVELOPMENT STRATEGY W/ JANA LABORATORIES" bearing the Bates numbers NIBCO-Cole 00015319 through NIBCO-Cole 00015333.

9. Attached hereto as **Exhibit 8** is a true and correct copy of a February 9, 2009 document entitled "PEX Dev. Strategy Executive Review" bearing Bates numbers NIBCO-Meadows 00015405 through NIBCO-Meadows 00015423.

10. Attached hereto as **Exhibit 9** is a true and correct copy of a February 20, 2009 document entitled "Project 08-1136 – Compilation Report – Final," bearing Bates numbers NIBCO-Meadows 00133859 through NIBCO-Meadows 00134121.

11. Attached hereto as **Exhibit 10** is a true and correct copy of an October 30, 2009 document entitled “Project 09-1159 Compilation Report – E-Beam Process Improvement,” bearing Bates numbers NIBCO-Meadows 00016181 through 00016510.

12. Attached hereto as **Exhibit 11** is a true and correct copy of a document entitled “What is Dezincification?” bearing Bates number NIBCO-Meadows 00014051.

13. Attached hereto as **Exhibit 12** is a true and correct copy of an email chain bearing Bates numbers NIBCO-Cole 00134162 through NIBCO-Cole 00134169.

14. Attached hereto as **Exhibit 13** is a true and correct copy of the May 24-25, 2017 deposition of Cynthia Smith taken in this matter.

15. Attached hereto as **Exhibit 14** is a true and correct copy of the March 7, 2017 report of Plaintiffs’ expert, Ed Slovak.

16. Attached hereto as **Exhibit 15** is a true and correct copy of a document produced in this litigation in native format (Microsoft Excel) bearing Bates number NIBCO-Cole 00024433.

17. Attached hereto as **Exhibit 16** is a true and correct copy of the January 18, 2017 deposition of Randy Doering taken in this matter.

18. Attached hereto as **Exhibit 17** is a true and correct copy of a document entitled “Project 08-1136 – Compilation Report – Final,” bearing Bates numbers NIBCO-Meadows 00133859 through NIBCO-Meadows 00134121.

19. Attached hereto as **Exhibit 18** is a true and correct copy of the July 21, 2017 Declaration of Plaintiff Kimberly Cole.

20. Attached hereto as **Exhibit 19** is a true and correct copy of the February 13, 2017 deposition of Kimberly Cole taken in this matter.

21. Attached hereto as **Exhibit 20** is a true and correct copy of the November 29, 2016 deposition of Richard Roman taken in this matter.

22. Attached hereto as **Exhibit 21** is a true and correct copy of the November 29, 2016 deposition of James Monica taken in this matter.

23. Attached hereto as **Exhibit 22** is a true and correct copy of the January 11, 2017 deposition of Linda Boyd taken in this matter.

24. Attached hereto as **Exhibit 23** is a true and correct copy of a screenshot from the website of the Alabama Secretary of State (<http://arc-sos.state.al.us/cgi/corpdetail.mbr/detail?corp=451686&page=name&file=D&type=ALL&status=ALL&place=ALL&city>), taken on July 27, 2017.

25. Attached hereto as **Exhibit 24** is a true and correct copy of a screenshot from the website of the Alabama Plumbers and Gasfitters Board

(<http://www.pgfb.state.al.us/InquiryDetails.aspx?id=10745>), taken on July 27, 2017.

26. Attached hereto as **Exhibit 25** is a true and correct copy of a document entitled “Evaluation Response Letter” bearing Bates number NIBCO-COLE 00084747.

27. Attached hereto as **Exhibit 26** is a true and correct copy of the November 17, 2016 deposition of Michael McMahon taken in this matter.

28. Attached hereto as **Exhibit 27** is a true and correct copy of the December 20, 2016 deposition of Ray Sminkey taken in this matter

29. Attached hereto as **Exhibit 28** is a true and correct copy of the November 16, 2016 deposition of James Medders taken in this matter.

30. Attached hereto as **Exhibit 29** is a true and correct copy of the January 23, 2017 deposition of Robert Peperno taken in this matter.

31. Attached hereto as **Exhibit 30** is a true and correct copy of a video produced in this matter by Plaintiffs Robert and Sarah Peperno, bearing Bates number PEPERNO-00007.

32. Attached hereto as **Exhibit 31** is a true and correct copy of a video produced in this matter by Plaintiffs Robert and Sarah Peperno, bearing Bates number PEPERNO-00008.

33. Attached hereto as **Exhibit 32** is a true and correct copy of the January 16, 2017 deposition of Kelly McCoy taken in this matter.

34. Attached hereto as **Exhibit 33** is a true and correct copy of a document entitled “Credit/Check Request” bearing Bates numbers NIBCO-COLE 00122415 through 00122416.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 28, 2017.

/s/ Bruce D. Greenberg  
Bruce D. Greenberg